

APPROVED MINUTES

April 7, 2014

Kittery Town Council
Special Meeting
Requested by Chairperson Thomson

Council Chambers

1. Call to Order: The meeting was called to order at 5:45 p.m. by Chairperson Thomson.
2. Introductory: Chairperson Thomson read the introductory.
3. Pledge of Allegiance: Chairperson Thomson led those present in the Pledge of Allegiance.
4. Roll Call: Answering the roll were Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier, Jeffrey Thomson, Judith Spiller and Jeffery Brake. Councilor Russell White arrived at 5:47 p.m.
5. DISCUSSION
 - a. Discussion by members of the public (only pertaining to item #6 below and three minutes per person) - none
6. NEW BUSINESS

a. (040114-1) The Kittery Town Council moves to release funds in the amount of \$12,500 from unassigned surplus for the replacement of the Pepperrell Cove holding tank.

Chairperson Thomson said they had a motion to postpone action until tonight and asked the Town Manager if she had received any new information since last week's meeting.

Town Manager Colbert Puff replied she had received one additional written estimate which exceeds the price of the other bids.

Chairperson Thomson asked for any discussion.

Councilor Dennett wanted to know if he could see the estimate, which the Town Manager handed down to the Chair to give to him.

Councilor Dennett said he does not see a date stamp on it and wanted to know who got it.

Town Manager Colbert Puff replied the Harbor Master had handed it to her.

Councilor Dennett asked Michael Blake if he had received it.

Mr. Blake replied yes.

Councilor Dennett wanted to know how Mr. Blake had received it - was it by mail, fax, or in person?

Mr. Blake responded it was sent to him via e-mail.

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Councilor Dennett said okay and asked if it is not the practice for the Harbor Master or Port Authority to date stamp correspondence they receive.

Mr. Blake answered he could have, but he did not. He offered to go back and stamp the date on it for Councilor Dennett.

Councilor Dennett said that would defeat the purpose.

Mr. Blake wanted to know what is the purpose?

Councilor Dennett asked what the hell are we running here (and that) it's a mess!

Councilor Dennett said the meeting is April 7th and the estimate is dated April 1st.

Chairperson Thomson said tonight is April 7th and their last meeting was March 31st.

Councilor Dennett asked if the Port Authority applied for, and received a building permit.

Mr. Blake replied yes.

Councilor Dennett wanted to know when.

Mr. Blake said he could furnish a copy but he did not know the exact date.

Councilor Dennett asked Mr. Blake if he had the permit.

Mr. Blake replied yes.

Councilor Dennett asked if he could see it.

Mr. Blake responded yes and handed him his folder.

Councilor Pelletier said since he wasn't at the last meeting, could he see a copy of the other bid, which Chairperson Thomson handed to him.

Councilor Pelletier wanted to know who the bidder is and what was the amount of the bid?

Town Manager Colbert Puff replied it was from Morgridge for \$12,500.

Councilor Denault asked if they had a policy to make sure we are following the correct steps so we do not have these issues happening again.

Town Manager Colbert Puff responded the procedures are set forth in the ordinance, and she is the Purchasing Agent, but there is a conflict. She said one section calls for two quotes, and another section, for the same price range, requires three. She said the Harbor Master did solicit for three, but only received two.

Town Manager Colbert Puff said you can lead a horse to water, but you can't make it drink. She said if we do not receive the required bids, a statement has to be on file.

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Councilor Denault asked if they need to change any wording.

Town Manager Colbert Puff replied that it is an internal conflict between Sections 2 and 3.

Councilor Denault said the reason why he is asking is that he received an e-mail from someone who lost out on bidding because he was not informed of it, which he will share later.

Town Manager Colbert Puff said if it is over \$25,000, they proceed with formal bidding, advertising, notice in the paper, etc.

Councilor Denault said he did not know what the bid request in the e-mail, but maybe this is something we needed to look at it.

Councilor Dennett said he has been through the folder and he sees applications, but no building permit and asked if he was missing something.

Mr. Blake replied he did not know what Councilor Dennett was missing. He said that he had the information in there from the CEO.

Councilor Dennett said that Mr. Blake told them he has a building permit and he doesn't see one.

Mr. Blake said then don't pass it.

Councilor Dennett retorted he won't.

Chairperson Thomson asked the Harbor Master if it was the same firm he solicited that he mentioned at last week's meeting.

Mr. Blake replied yes.

Councilor Dennett said he thinks this process is improper, it should have gone through the Town Manager as the procurement agent and he doesn't know if she was involved, but it is way out of whack. He said he would vote against it and if the process is wrong, then we should change it, but we should not disregard it.

Councilor Pelletier said he shares the same concerns as Councilor Dennett about the process, and is not sure how much experience the Harbor Master has had in soliciting requests for proposals. He asked the Town Manager, as Purchasing Agent, if she feels comfortable with the two bids received and awarding to one or the other and for her opinion as to whether or not they should move forward.

Town Manager Colbert Puff said they were correct to say that she wasn't involved, but she has spoken with the Harbor Master, three originals were solicited and he received valid quotes for the work. She said she is comfortable with the process Mr. Blake followed.

Councilor Pelletier asked which one she would recommend.

Town Manager Colbert Puff said she would recommend the lowest bidder.

Councilor Pelletier stated that would be Morgridge. Town Manager Colbert Puff said yes.

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Councilor Spiller said, like Councilor Pelletier, she would defer to the Town Manager's judgment, but it is a continuation of the issues they have had with the Port Authority, and a source of chronic anxiety, as the Port Authority continues to carry out with their projects, without exposing the town.

Councilor White said he did serve on the Port Authority for a couple of years and is acquainted with the current Harbor Master a little bit. He said the Port Authority is its own animal and operates with a budget and they are planning on moving away from town contributions. He said they probably operate less formally than this branch of town government, but he does not see anything that causes him concern.

Councilor White said he is not sure if the ordinance directs whether or not they need a building permit. He said he does not see that the ordinance requires bids and if the Town Manager is comfortable with it, he would give the authority to the Town Manager.

Councilor White said it (the ordinance) is a bit fragmented, and it can be improved, but he is comfortable with it.

Chairperson Thomson asked a question of the Harbor Master: is the dumpster in its historical location or has it been moved.

Mr. Blake replied he did not know what the historical location is but it is not down there now.

Chairperson Thomson asked is it placed so the vehicle that cleans out the dumpster has to travel over the holding tank.

Mr. Blake responded yes.

Chairperson Thomson asked why.

Mr. Blake answered that it is a better place to put the dumpster so it is accessible for the truck to empty it. He said the parking lot is tight down there.

Chairperson Thomson wanted to know if there is any reason to believe that this happened due to the excessive weight of the truck.

Mr. Blake replied it should have been built to support the weight of vehicles since it is under the parking lot.

Chairperson Thomson asked the Harbor Master if any information was sought from former Board members involved with the placement of the holding tank which is now cracked and the placement of the dumpster.

Mr. Blake responded he did not believe so and that he did not see any deformation in the asphalt nor has it shown any movement that would lead to the crack in the tank. He said the tank is surrounded by fill in the parking lot.

Councilor Denault said last week he did put a call to Genest Precast in Sanford asking them if they made a 2500 gal. holding tank, but they did not get back to him. He said he was remiss today and forgot to call them back.

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Councilor Denault said his question is still there. He said it is his understanding from the Harbor Master that the town will not let us increase the size (of the tank) by 25% or wanted to know was is it the State.

Mr. Blake replied he is not sure if it is the State or the ordinance and he did not delve into it that much. He said he was told by Heather the size cannot be increased.

Councilor Denault would support the recommendation of the Town Manager, but said they are not thinking outside the box. He said he is not sure if it is a personnel issue or someone's interpretation of the law, but thought that they should get the best they can for that size.

Councilor White asked how long has the tank been there, since it's been replaced.

Mr. Blake said he is going by word of mouth and would guess somewhere between 20 and 25 years.

Councilor White said it taking a quick look online, there are precast companies that make 2500 gallon tanks, and he is not sure if there are any in Maine, but it might be worth looking into, even though it might change the price.

Councilor White, wanted to know, going back to the agenda item from the March 31st meeting, indicating an amount not to exceed \$50,000 whether or not there had been any authorizations to fund up to that amount, or any allocations out of that fund since last week?

Town Manager Colbert Puff replied no.

Councilor White asked if this was the only allocation.

Town Manager Colbert Puff answered yes.

Chairperson Thomson said he is troubled with a few things and that he would feel more comfortable seeing a date stamp and a copy of the e-mail that this estimate was attached to. He said also he would like to see the Building Permit as Councilor Dennett indicated. He said he is hesitant to appropriate any funding without that in place and since the bid is effective through May 1st, he would like to postpone taking action on this item until their regular meeting of April 14th in order to get more information.

CHAIRPERSON THOMSON MOVED THAT COUNCIL POSTPONE TAKING ACTION ON RELEASING FUNDS FROM UNASSIGNED SURPLUS TO REPLACE THE PEPPERRELL COVE HOLDING TANK UNTIL THEIR APRIL 14TH MEETING IN ORDER TO GET THE INFORMATION REQUESTED, SECONDED BY COUNCILOR DENNETT. ROLL CALL VOTE WAS TAKEN AND MOTION PASSED 6-1 (COUNCILOR WHITE VOTING IN OPPOSITION).

7. ADJOURNMENT

IT WAS MOVED BY COUNCILOR PELLETIER AND SECONDED BY CHAIRPERSON THOMSON TO ADJOURN THE MEETING AT 6:05 P.M. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 7-0.

/bb